HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 104 (S/S) 2005

Prem Singh Tomar S/o Late Sri Pancham Singh,
R/o D-324, Subhash Nagar, Roorkee,
Haridwar, Distt. Haridwar. ...Petitioner

Vs.

1. State of Uttaranchal through,
Secretary Education, Uttaranchal,
Dehradun.
2. Director of Education,
Uttaranchal, Dehradun.
3. Additional Director of Education,
Garhwal Division, Pauri Garhwal,
4. Principal, Govt. Inter College, Roorkee,
District Haridwar. ...Respondents

Sri Rajendra Dobhal, learned counsel for the petitioner,
Learned Stadning Counsel for the respondents.

Hon'ble M.M. Ghildiyal, J.

Heard Sri Rajendra Dobhal, learned counsel for the petitioner and learned Standing for the respondents.

Counsel for the parties are agreed that the writ petition may be decided at the admission stage itself.

Vide order dated 10th November 2004 the petitioner, who is Assistant Teacher (L.T. Grade) in the Govt. Inter College Roorkee, District Haridwar was transferred to Govt. Inter College, Hatal (Chakrata), District Dehradun. This order was subsequently cancelled by the Director of Education on 17th December 2004. Again on 12th January 2005, the Director of Education has passed an order which is order impugned to the present petition. Vide order impugned, the Director of Education has revived the order dated 10th November 2004 by which the petitioner was transferred from Govt. inter College Roorkee to Hatal (Chakrata).

The petitioner has challenged this order on two grounds. Firstly, the order of transfer dated 10th November 2004 was

earlier cancelled by the Director of Education on 17th December 2004 and there remained no question to revive its earlier order hence the Director of Education erred in passing the order dated 12th January 2005 by reviving the earlier order dated 10th November 2004. Second submission made by the learned counsel for the petitioner is that the petitioner is an Art Teacher and he has been transferred to Chakrata as a Physical Education Teacher. The petitioner has never passed C.P. Ed. or D.P.Ed. and he cannot be posted as a Physical Education Teacher. It is not disputed that the order dated 10th November 2004 was cancelled vide order dated 17th December 2004, therefore, I find force in the submission made by the learned counsel for the petitioner that the order dated 10th November 2004 cannot be revived after its cancellation.

Consequently, the writ petition is allowed. The order dated 12th January 2005 passed by In-charge Director of Education, Uttaranchal, Dehradun is quashed. The authorities are free to pass order afresh in the matter.

(M.M. Ghildiyal, J.)

February 11, 2005
NCM: